

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

JOSHUA S.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH No. L 2006100882

DECISION

Administrative Law Judge Greer D. Knopf, State of California, Office of Administrative Hearings, heard this matter in San Bernardino, California on December 18, 2006.

Deborah Crudup, Consumer Services Representative, Inland Regional Center represented the service agency, Inland Regional Center.

Gina Moody, the claimant's mother represented the claimant Joshua S. who was not present at the hearing.

The matter was submitted on December 18, 2006.

ISSUE PRESENTED

Should the service agency be required to purchase a Care Track System for the claimant?

FACTUAL FINDINGS

1. Claimant, Joshua S. (the claimant) is a 13-year-old boy who receives services from the Inland Regional Center (the service agency). The claimant has a

diagnosis of autism and moderate mental retardation and he receives services from the service agency on that basis. The claimant's birthday is August 6, 1992. He lives at home with his mother, step-father and 15-year-old sister. He attends a special education program at the local public school. Joshua requires assistance with most all of his daily life skills and requires constant supervision.

2. Joshua has a habit of wandering out of the house. He is capable of wandering away. He is highly active at all times of the day and night. His mother works hard to keep tabs on him. The family has installed double dead-bolt locks on all of the exterior doors so that a key is needed to open the doors from the inside. The family keeps the keys hidden from Joshua, but sometimes they forget and leave a door unlocked or leave a key out where Joshua can find it. They also installed alarms on the windows, but Joshua figured out how to remove the batteries. When Joshua gets out of the house undetected he wanders down the street, most times not very far, but sometimes it takes some time to find him. His mother worries that one day he will truly get lost or wander onto a busy street and be injured.

3. The regional center currently provides the claimant's family with 88 hours per month of respite. This is an unusually high amount of respite. The claimant is also provided with 39 hours per month of social recreational services. In addition, Joshua receives behavior modification training each week. Joshua also receives 195 hours per month of IHSS through the County. The IHSS funding is paid directly to his mother who is the IHSS provider. This allows Joshua's mother to stay home to care for Joshua herself rather than work outside the home. Including the time spent at school, Joshua has a total of 442 hours of supervision funded per month. With approximately 720 hours in a month, that leaves about 278 hours per month or about nine hours in a 24 hour day that are not funded for direct supervision of Joshua.

4. Joshua's mother is requesting that the regional center fund the purchase of a system known as the Care Track System for the claimant. This is a system that is in essence a global positioning system (GPS) transmitter that is put on the child's wrist. The GPS tracks the whereabouts of the child just like a navigation system installed in an automobile would track the car's whereabouts. The device shows the position of the wearer on a screen and pinpoints the person within about 50 feet of where the person actually is located. Of course, the device will only work correctly if the person being tracked keeps the device on his wrist. Since Joshua has demonstrated the ability in the past to figure out how to bypass certain alarm devices, it is questionable whether he will willingly wear the device or whether he will learn how to remove it when he wants to make one of his escapes from the house.

5. The regional center denied the family's request for the Care Track System. They based their denial on several factors. Keeping a child safely at home is the parents' responsibility for any child. The family has the responsibility for providing for the basic safety needs of a child with developmental disabilities just as any family would provide for those needs for a child without developmental disabilities. Children

can wander away from their family home and it is up to the family to maintain vigilance about doors and windows to ensure the child's safety. The program manager supervising the claimant's consumer services coordinator at the regional center, Tom Cosand, does not believe a tracking device such as this is the safest way to keep an eye on Joshua. Since Joshua could simply remove the device, it would not help in that instance. He also believes that preventing Joshua from leaving the house unescorted in the first place is the best way to ensure Joshua's safety. By the time Joshua leaves the house he is already in an unsafe environment. This tracking device does not actually constitute treatment for any of the claimant's developmental disabilities, but it is something that the family would find useful to have. This is not dissimilar to the GPS devices some parents are choosing to install in their minors' automobiles to keep track of their whereabouts and help ensure their safety. This requested equipment is simply not the sort of equipment that the regional center must be required to fund.

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4512 provides:

“As used in this part:

“(b) ‘Services and supports for persons with developmental disabilities’ means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, or towards the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. . . .”

Welfare and Institutions Code section 4648 provides in pertinent part:

“(a)(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan. . . . (a)(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents . . . determines will best accomplish all or any part of that consumer's program plan.”

2. The evidence presented herein established that the claimant's most beneficial protection is with the preventative mechanisms installed in the home and the many hours of supervision that is being provided. The claimant's needs are currently being met. The evidence presented by the claimant was insufficient to contradict this proof. The evidence established that the requested equipment would be the sort of optional equipment that is his parents' responsibility to provide. The service agency does not need to provide such equipment, as set forth in Findings 1 – 5.

3. The regional center must monitor the effectiveness of all services it funds as well as the cost-effectiveness of the use of public resources. (Welf. & Inst. Code §§ 4501 and 4646.) The claimant presented insufficient evidence of the need and effectiveness of the Care Track System as needed therapy to treat the claimant's developmental disabilities. The regional center did not abuse its discretion in denying the claimant's request for this item. Any services funded by a service agency should be a fiscally effective use of public funds. The regional center is therefore not required to grant the claimant's request to purchase a Care Track System for the claimant, as set forth in Findings 1 – 5.

ORDER

The claimant's appeal to require the service agency to purchase a Care Track System for the claimant is hereby denied.

NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within the State of California.

DATED: _____

GREER D. KNOPF
Administrative Law Judge
Office of Administrative Hearings